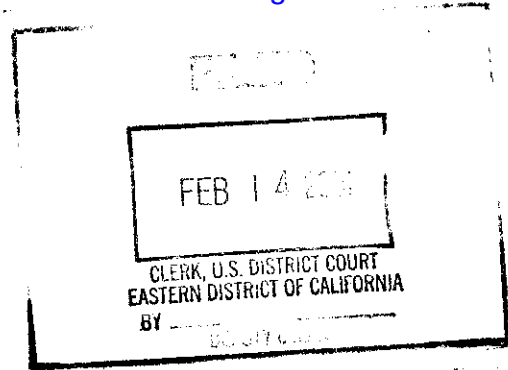


MDS



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANDREW H.K. WONG,

NO. CIV. S-96-965 LKK/GGH

Plaintiff,

v.

O R D E R

REGENTS OF THE UNIVERSITY  
OF CALIFORNIA,

Defendant.


On February 12, 2001, the court held a Pretrial Conference with both parties in the above-captioned matter. Plaintiff petitioned the court to certify the court's January 11, 2001 order for interlocutory appeal. Certification is appropriate where the "order involves a controlling question of law as to which there is a substantial ground for difference of opinion" and where "an immediate appeal from the order may materially advance the ultimate termination of the litigation." See 28 U.S.C. § 1292(b).

The court's January 11, 2001 order involved a controlling question of law. The question, in which reasonable persons could

1 disagree, is whether the plaintiff in this matter, who has tendered  
2 evidence of an impairment, is disabled within the meaning of the  
3 Americans with Disabilities Act. In light of the recent trilogy  
4 of Supreme Court cases, the answer to this question remains  
5 uncertain. See Albertsons, Inc. v. Kirkingburg, 527 U.S. 555  
6 (1999), Sutton v. United Airlines, Inc., 527 U.S. 471 (1999), and  
7 Murphy v. United Parcel Service, Inc., 527 U.S. 516 (1999).  
8 Moreover, the court's order significantly restricts plaintiff's  
9 claims and remedy, as the remaining "regarded as" disabled claim  
10 would appear to preclude plaintiff from being reinstated into the  
11 U.C. Davis School of Medicine. Therefore, an immediate appeal  
12 would materially advance the ultimate termination of the  
13 litigation. Accordingly, pursuant to 28 U.S.C. § 1292(b), the  
14 court's January 11, 2001 order is hereby CERTIFIED for  
15 interlocutory appeal. The parties are directed to inform the court  
16 within ten (10) days of the circuit's disposition of the appeal.

17 IT IS SO ORDERED.

18 DATED: February 13, 2001.

19  
20   
21 LAWRENCE K. KARLTON  
22 SENIOR JUDGE  
23 UNITED STATES DISTRICT COURT  
24  
25  
26

United States District Court  
for the  
Eastern District of California  
February 14, 2001

\* \* CERTIFICATE OF SERVICE \* \*

2:96-cv-00965

Wong

v.

Regents of the Univ

---

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on February 14, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Dan Siegel  
Siegel Yee and Jonas  
499 14th Street  
Suite 220  
Oakland, CA 94612

SJ/LKK

Michael T Lucey  
Gordon and Rees  
Embarcadero Center West  
275 Battery Street  
Suite 2000  
San Francisco, CA 94111

U.S. Court of Appeals  
for the Ninth Circuit

P.O. Box 193839  
San Francisco, CA 94119 3839

Jack L. Wagner, Clerk

BY: 

Deputy Clerk